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**TO:** LESC 2014 Interim Charter Schools Subcommittee

**FROM:** Alex Medler, Vice President of Policy and Advocacy, NACSA

**DATE:** July 11, 2014

**RE:** Cover Sheet: Charter School Definitions

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Attached please find the following materials to be referenced during the Agenda Item:

3:30 COMPARISON OF CHARTER SCHOOL DEFINITIONS IN OTHER STATES

Attachments

- 1) Memo: Comparison of Charter School Definitions in Other States



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**RE:** Comparison of Charter School Definitions in Other States

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**Summary:** There are likely limits to the feasibility of using the definition as a tool to influence practice or set parameters around what charter schools and authorizers should or may do. To the extent that New Mexico has challenges in practice, NACSA would urge the state to explicitly address the issues that have arisen through the statutes governing charter contract and the fidelity of charter schools to said contracts.

**Defining Charter Schools as a LEA or School District: Common Uses:** State laws vary in their identification of a charter school as a Local Education Agency or school district. There are two definitions that state laws sometimes apply to charter schools:

- 1) designation as a Local Education Agency, generally for purposes of compliance with federal laws
- 2) designation as a school district, as defined by the state constitution or other state law

The more common practice is designation as a Local Education Agency for purposes of federal reporting and service requirements. States handle this in a range of ways. In practice, the distinction usually hinges on the responsibility for special education services. The entity that is designated the federal LEA is legally responsible for providing special education services and generally receives the designated federal funding providing those services. In some states the charter school is the LEA for these purposes, in other states the authorizer or state-defined school district is the LEA, and in other states the law is unclear.

We are at this time unaware of any state law that grants charter schools the same definitional status as a state-defined school district for all areas of legal status and operation. Any unresolved questions concerning the rights of a charter school should be addressed in the charter contract between the authorizer and the charter school.

**The Charter Contract: Clarifying the Rights and Responsibilities of the Authorizer and the Charter School:** The charter contract is the foundational document that governs the rights and responsibilities of the authorizer and the charter school. The existence of a charter contract defines the existence of a charter school. The charter contract should include specific parameters governing grade levels served, enrollment parameters, campus expansion, and campus location. If there is disagreement over what a charter school can and cannot do as a legally defined entity, it is very likely linked to ambiguity within the charter contract.

NACSA recommends that the subcommittee consider two changes to state law to address ambiguity concerning the rights and responsibility of charter schools.

- 1) Define charter schools as entities beholden to their charter contract
- 2) Require the inclusion of key provisions governing campuses, student enrollment, and grade levels within the charter contract and classify them as material terms.



*Definition of a public charter school:* The National Alliance for Public Charter Schools Model Law<sup>1</sup> recommends clear definitions of a “Public charter school” within a state’s charter school law. This definition links the charter school directly to the charter school contract that governs it.

- (1) A “public charter school” means a public school that:
  - (a) Has autonomy over decisions including, but not limited to, matters concerning finance, personnel, scheduling, curriculum, and instruction;
  - (b) Is governing by an independent governing board;
  - (c) Is established and operating under the terms of a charter contract between the school’s board and its authorizer;
  - (d) Is a school to which parents choose to send their children;
  - (e) Is a school that admits students on the bases of a lottery if more students apply for admission than can be accommodated
  - (f) Provides a program of education that includes one or more of the following: pre-school, pre-kindergarten through 12<sup>th</sup> grade, an adult community, continuing, and vocational education programs;
  - (g) Operates in pursuit of a specific set of educational objectives as defined in its charter contract; and
  - (h) Operates under the oversight of its authorizer in accordance with its charter contract.

*NACSA Practice Recommendations: Required components of a charter school contract:*

- (1) Recitals- affirming the legal authority of the authorizer and charter school to enter into a contract and the circumstances under which the contract is being entered.
- (2) Establishment of the School- articulating the conditions of the school’s existence such as legal status and requirements of the governing body.
- (3) Operation of the School- setting forth key operational terms ranging from the school’s mission and student enrollment (grade level, enrollment maximum, number of campuses) to the educational program, school calendar, and student discipline.
- (4) School Financial Matters- defining the key funding processes and provisions, and the financial responsibilities of each party.
- (5) Personnel- describing the status and requirements of the school’s employees
- (6) Charter Term, Renewal and Revocation- stating the length of the charter term and conditions for renewal and revocation.
- (7) Operation of the Contract- describing how the contract will be upheld and enforced, addressing procedures ranging from contract amendment to dispute resolution.
- (8) Authorizer Policies- presenting, often through exhibits, the authorizer’s policies, practices, and expectations for the charter school from pre-opening through renewal decision. This section should include the authorizer’s performance framework and clear, measureable performance standards and expectations for the charter school. In many ways, these policies and expectations might be considered the heart of the contract.

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<sup>1</sup> National Alliance for Public Charter Schools “A New Model Law for Supporting the Growth of High-Quality Public Charter Schools”; June 2009  
[http://www.publiccharters.org/wp-content/uploads/2014/01/ModelLaw\\_P7-wCVR\\_20110402T222341.pdf](http://www.publiccharters.org/wp-content/uploads/2014/01/ModelLaw_P7-wCVR_20110402T222341.pdf)